IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.138 OF 2003

1. Shri Gajpal Udgave Trust,
10/138, Ichalkaranji,
Taluka Hatkanangale,
District Kolhapur 416 115.

2. Sangavde Shikshan Prasarak Mandal,
Sangavde, Taluka Karvir,
District Kolhapur.

3. Rozari Shikshan Sanstha,
Watangi, Taluka Ajara,
District Kolhapur.

4. Nyan Ganga Shikshan Sanstha,
Nave Dhanvad, Taluka Shirol,
District Kolhapur.

5. Nyan Vigyan Shikshan Prasarak Mandal
Bajreshwar,Taluka Karvir,
District Kolhapur.

6. Shri Venkatesh Education Society,
Kupri, Taluka Hatkanagale,
District Kolhapur 416 203.

7. Ninai Utkarsha Seva Mandal,
Devicharan Chawl No.2.,
Room No.5, Kajupada, Pipeline,
Kurla (West), Mumbai 400 072.

8. Vasant Shikshan Prasarak Mandal,
Shirol, Taluka Shirol,
District Kolhapur. Petitioners

versus

1. State of Maharashtra
through Department of Education
Mantralaya Annexe, Mumbai 400 032.

2. The Director of Education (Secondary)
Pune.

3. The Dy. Director of Education,
Kolhapur, Kolhapur Region,Kolhapur.

4. The Education Officer, (Secondary),
Zilla Parishad, Kolhapur. Respondents

ALONG WITH

WRIT PETITION NO.692 OF 2003

1. Jagruti Shikshan Sanstha
At & Post Kumte, Taluka
Tasgaon, District Sangli.

2. Lok Nayak Shikshan Mandal,
Sangli, Hira Hospital,
Opp.Mali Chitramandir,
Shivaji Nagar,
Sangli.

3. Gundewadi Shikshan Prasarak
Mandal,
At & Post Gundewadi,
Talukia Miraj, District Sangli.

4. Pai Bhagwanrao Dhudal Patil
Charitable Trust,
At & Post: Dudhe Bhavi,
Taluka Kavathe Mahankal,
District Sangli. Petitioners

versus

1. State of Maharashtra
through Department of Education
Mantralaya Annexe, Mumbai 400 032.

2. The Director of Education (Secondary)
Pune.

3. The Dy. Director of Education,
Kolhapur, Kolhapur Region,Kolhapur.

4. The Education Officer, (Secondary),
Zilla Parishad, Sangli. Respondents

Mr.A.Y.Sakhare i/b. Ms.Varsha Palav for the petitioners.

Mr.R.M.Patne, A.G.P. for the Respondents.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 8th April 2005

ORAL JUDGMENT (Per R.M.Lodha,J.)

Heard Mr.A.Y.Sakhare, the learned senior counsel for the petitioners and Mr.R.M.Patne, the learned A.G.P.

2. Both writ petitions involve identical issues and are being disposed of by this common order.

3. The petitioners were granted permission to open new secondary school at Shahapur, Ichalkaranji on permanent no-grant basis in the academic year 1999-2000.

4. In response to the writ petition, reply affidavit has been filed by the Deputy Education Officer. In paragraph 12 of the reply affidavit it is stated that as per the policy formulated by the State Government where the applicants were prepared to run secondary school on no-grant basis, such proposals were considered on priority basis for granting permission. It is further stated that the State Government shall formulate the policy to sanction grant in aid to the needy unaided secondary schools. As and when the financial position of the Government improves, permission granted on unaided basis shall be considered as per the policy.

5. Two aspects emerge from the reply filed on behalf of the State Government. Firstly, the applicants who are

ready to run the secondary schools without asking for grant in aid, their proposals are considered on priority basis. Secondly, even if the permission is granted on "permanent no-grant basis" it is subject to review as per the policy that may be formulated by the State Government when the financial condition of the Government improves. Obviously, therefore, the petitioners' case for grant in aid shall be open for consideration as and when State Government's financial condition improves and it formulates the policy to provide grant in aid to unaided schools. The petitioners shall not be treated differently and its case shall be considered as and when such occasion arises similar to the similarly situated permissions granted on permanent no grant basis. Needless to say that such consideration of grant-in-aid to the schools permitted on permanent nongrant basis shall be in accordance with the Secondary School Code, 2002.

6. In other words, the expression "permanent no grant basis' used in the permission dated 2nd June 1999 does not mean denial of no grant permanently but subject to consideration of grant-in-aid in accordance with the law and the policy that may be formulated by the State Government on improvement of the State's financial condition and other relevant circumstances.

7. With the aforesaid observations, both the writ petitions are disposed of.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)